

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Alan B. Shuey :
Assignee: Ductmate Industries, Inc. : Patent Application
Serial No. 10/029,087 : **RELEASABLE CABLE GRIP**
Filed: December 20, 2001 : Attorney Docket No. 010071
Examiner: Ruth C. Rodriguez :
Art Unit: 3677 :
Confirmation: 3407 :

AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

September 5, 2006

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Introductory Comments

This is in Response to the June 6, 2006 Office Action.

-II-
Claims

Claims 1-19 (canceled).

Claim 20 (previously presented): The releasable cable grip connector of claim 22 wherein said wedge means has a release lever extending outwardly on each side of said wedge means through respective slots on opposite sides of said housing.

Claim 21 (previously presented): The releasable cable grip connector of claim 22 wherein said wedge means has a single release lever extending outwardly on said wedge means through said slot and said housing.

Claim 22 (previously presented): A releasable cable grip connector for locking a cable segment within a housing comprising:

a housing having a first bore therethrough to receive a first cable segment and a second bore therethrough parallel to said first bore to receive a second cable segment, said first and second bores being of a diameter to permit said first and second cable segments to pass freely through said bores, said first and second bores being straight throughout the extent of said housing;

a channel within said housing disposed to one side of said first bore and acutely inclined to and, at its inner end, breaking into said first bore; wedge means positioned within said housing in said channel and spring loaded

by a coil spring to bias said wedge means against said cable segment within said first bore to wedge said cable segment against said first bore and thereby grip said cable segment, said coil spring that spring loads said wedge means being positioned axially within said channel so that the force generated by said coil spring acts at all times in an axial direction; a slot in said housing extending parallel to said channel and to said coil spring within said channel and communicating with said channel; a release lever fixed to said wedge means and extending through said slot to the outside of said housing whereby said release lever may be utilized to move said wedge means against the force of said coil spring away from said cable segment and permit movement of said cable segment relative to said first bore.

Claim 23 (canceled)

Claim 24 (Currently Amended): A releasable cable grip connector for locking a cable within a housing comprising:

- a. a housing;
- b. a first bore through the housing to receive a second cable segment;
- c. a channel within the housing disposed to one side of the first bore and acutely inclined to and, at its inner end, breaking into the first bore;
- d. a wedge positioned within the housing in the channel and spring loaded by a coil spring to bias the wedge against the cable segment within the first bore to wedge the second cable segment against the first bore and thereby grip the second cable segment,

the coil spring that spring loads the wedge being positioned axially with the channel so that the force generated by the coil spring acts at all time in an axial direction;

e. a slot in the housing extending parallel to the channel and the coil spring within the channel and communicating with the channel;

f. a release lever fixed to the wedge extending through the slot to the outside of the housing whereby the release lever may be utilized to move the wedge means against the force of the coil spring, away from the cable segment, and permit movement of the cable relative to the first bore; and

g. a second bore through the housing, parallel to the first bore, to receive a first cable segment that is to be connected to a support structure, the second bore is straight and unrestricted so that when the first cable segment is through the second bore it can move freely through the bore at all times without having to activate a release, thereby creating a self tightening loop when the wire cable is wrapped around an object and the second cable segment is locked into place by the wedge.

Claim 25 (previously presented): The releasable cable grip as recited in claim 24 wherein the second bore is cylindrical.

Claim 26 (Currently Amended): The releasable cable grip as recited in claim 25, wherein

a the second bore has a conical shape at a first opening and a conical shape at a second opening.

Claim 26-27 (Currently Amended): The releasable cable grip as recited claim 24, wherein a second first bore opening is rectangular.

Claim 27-28 (Currently Amended): The releasable cable grip as recited in claim 24, wherein the housing has a top, a bottom, a first side, a second side, and a back,

the top having a highest point in the middle and angling downward toward the first side and angling downward to the second side.

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Remarks

A. Claim Objections

Applicant has made the claim amendments requested by the Examiner. All objections should be removed.

B. Res Judicata Rejection.

The Examining Attorney has rejected claims 20-23 under the doctrine of *Res Judicata* based on the decision made on August 31, 2005 by the Board of Patent Appeals and Interferences affirming the rejection of Facey et al. in view of Pasbrig and the rehearing decision made on November 17, 2005 by the Board of Patent Appeals and Interferences to affirm the rejection of Facey et al. in view of Pasbrig. The Examiner's rejection on the basis of *Res Judicata* is improper.

During the Appeal, Applicant made the argument that the Examiner's suggested motivation of convenience of not needing a separate tool for combining the reference is not a motivating factor because in determining whether convenience is a motivating factor the benefit, both lost and gained, should be weighed against one another, based on the *Winner International Royalty Corp v. Wang* case. Applicant presented arguments as to factors that are lost by the combination and these factors outweighed benefit of convenience. The Appeal Board indicated that Attorney arguments are not evidence in making the decision and indicated that Applicant did not provide any evidence on the issue.

Applicant filed a Request for Continued Examination along with the Declaration of James R. Moon. Mr. Moon is an expert in the field and his statements are factual evidence. The Examiner dismissed this evidence as speculative. Applicant filed another Request for Continued

Examination that included prior art that supports James R. Moon's Declaration showing that the general engineering principals set forth in the Declaration are not speculative. Applicant is also enclosing a Declaration from Edward F. Rafalski indicating that James R. Moon's statements are not speculative but factual and definite to a person skilled in the art.

There is new evidence and new record to be considered. [A] new record presents a new issue. *In re Russell*, 439 F.2d 1228, 1230 (CCPA 1971) (*Res Judicata* rejection is improper where there is a new issue). The Examiner's rejection on *Res Judicata* is improper.

Applicant appreciates the Examiner's suggestion of testing. However, Applicant declines to undertake the cost expenditure associated with testing to prove common engineering principles. The Applicant believes the Examiner is predisposed to reject the Application no matter what evidence is provided by the Applicant.

As proof of this predisposition, one of the assertions by Jim Moon's Declaration is that, "a separate tool such as pliers might still be required to move the release lever." The Examiner finds this to be speculative. Page 10 June 6, 2006 Office Action.

The Examiner, in trying to find a reason for supporting the combination of Lyons and Facey, indicates, "[d]oing so, will facilitate the release of the cable because a significant advantage of the cable grip resides in the manner in which the wedge may be shifted from the locked position in which the wedge is forced towards the cable segment to a release position in which the wedge allows movement of the cable segment by using pliers to release the wedge through the release lever." (emphasis added) Page 8 June 6, 2006. The Examiner also cites the prior art for the use of the pliers.

It appears when the Examiner wants to use a statement it is evidence, but when Applicant presents evidence it is speculative.

Pliers are a separate tool, just like the separate tool provided for in Facey. That fact that pliers, a separate tool, are required with use of the wedge having a release lever directly attached to the wedge is enough to remove the Examiner's "convenience motivation" that no separate tool would be required.

Apparently the Examining Attorney disagrees with the basic engineering principles stated by James R. Moon. If the Examiner contradicts these assertions based on facts within the Examiner's personal knowledge, Applicant respectfully requests and is calling for, pursuant to MPEP Section 2144.03 and 37 C.F.R. Section 104, the Examiner to support such facts by an Affidavit.

Applicant respectfully cautions the Examiner about making conclusions not supported by objective evidence. As set forth in the very recent case of *In re Lee*, 61 USPQ2d 1430 (CAFC January 18, 2002):

As applied to the determination of patentability vel non when the issue is obviousness, "it is fundamental that rejections under 35 U.S.C. §103 must be based on evidence comprehended by the language of that section." *In re Grasselli*, 713 F.2d 731, 739, 218 USPQ 769, 775 (Fed. Cir. 1983). The essential factual evidence on the issue of obviousness is set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966) and extensive ensuing precedent. The patent examination process centers on prior art and the analysis thereof. When patentability turns on the question of obviousness, the search for and analysis of the prior art includes evidence relevant to the finding of whether there is a teaching, motivation, or suggestion to select and combine the references relied on as evidence of obviousness. See, e.g., *McGinley v. Franklin Sports, Inc.*, 262 F.3d 1339, 1351-52, 60 USPQ2d 1001, 1008 (Fed. Cir. 2001) ("the central question is whether there is reason to combine [the] references," a question of fact drawing on the Graham factors).

"The factual inquiry whether to combine references must be thorough and searching." *Id.* It must be based on objective evidence of record. This precedent has been reinforced in myriad decisions, and cannot be dispensed with.

Applicant disagrees with the Examiner's conclusion that Jim Moon's statements are speculative. Applicant has provided the Declaration of Edward F. Rafalski indicating that the prior art does support Mr. Moon's Declaration and that the points made by Mr. Moon are not speculative but knowledge known to a person having ordinary skill in the art.

B. 35 U.S.C. 103 rejection based on Facey in view of Pasbrig

The Examiner must show motivation to combine the references of Facey and Pasbrig. The Examiner has claimed the following motivation:

- 1) Pasbrig teaches using a release lever that transmits the unclamping force directly to the wedge means; and
- 2) If the release lever is directly attached a need for a separate tool is not required.

1. Unclamping force directly to the wedge means

Facey's tool directly transmits the unclamping force to the wedge means. Therefore, direct force would not be a motivating factor to combine Facey and Pasbrig.

2. Separate tool not required

The Applicant has provided ample evidence of why this is not a motivating factor in the form of James R. Moon's declaration, Alvin F. Coughenour's declaration and patents. The Examiner has in fact acknowledged that a separate tool such as pliers are still required when the release lever is attached to the wedge means.

There is no motivation or suggestion to combine Facey and Pasbrig.

C. 35 U.S.C. 103 Rejection Facey in view of Lyons.

Applicant is submitting a 131 Declaration showing a prior invention date to Lyons. Therefore, Lyons is not a proper basis for a rejection.

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CONCLUSION

In view of the above, it is submitted that the claims now presented in the application are in condition for allowance. Accordingly, reconsideration and allowance of the claims are requested.

Respectfully submitted,



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